

APR 18 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE BUENROSTRO,

Plaintiff - Appellant,

v.

JACK E. POTTER, Postmaster General; et
al.,

Defendants - Appellees.

No. 05-16449

D.C. No. CV-04-00937-VRW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Vaughn R. Walker, District Judge, Presiding

Submitted April 13, 2006**

Before: SILVERMAN, McKEOWN, and PAEZ, Circuit Judges.

Jose Buenrostro appeals pro se from the district court's summary judgment dismissing his action alleging discrimination and retaliation against his former employer, the United States Postal Service ("USPS"). We have jurisdiction

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

pursuant to 28 U.S.C. § 1291. We review de novo, *Porter v. California Dep't of Corrections*, 419 F.3d 885, 891 (9th Cir. 2005), and we affirm.

The district court properly concluded that, even if Buenrostro made out a prima facie case of retaliation, Buenrostro failed to raise a genuine issue of material fact as to whether the USPS's legitimate, non-discriminatory reason for terminating Buenrostro—his poor work performance—was pretext for a retaliatory motive. *See Manatt v. Bank of America, NA*, 339 F.3d 792, 801 (9th Cir. 2003) (affirming summary judgment for employer where plaintiff “failed to introduce any direct or specific and substantial circumstantial evidence of pretext”).

Because Buenrostro does not challenge the district court's dismissal of his age and national origin discrimination claims in his briefs, he has waived these claims on appeal. *See Collins v. City of San Diego*, 841 F.2d 337, 339 (9th Cir. 1988) (claims that are not developed by argument and supported by authority in the appellant's briefs are deemed abandoned). Even were we to decide that Buenrostro had not abandoned his discrimination claims on appeal, these claims fail because Buenrostro conceded in his deposition that he was not discriminated against on the basis of his age or national origin at the Petaluma post office.

Buenrostro's remaining contentions lack merit.

AFFIRMED.